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**Federal Communications Commission**

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**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Virginia, Commonwealth of, Dept. of Transportation)	)	File No.: EB-FIELDSCR-14-00017541
Owner of Antenna Structure No. 1024092	)	
	)	NOV No.: V201532640001
	)	
Norfolk, VA	)	

**NOTICE OF VIOLATION**

**Released:** October 29, 2014

By the Resident Agent, Norfolk Office, South Central Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission's rules (Rules)<sup>1</sup> to Virginia, Commonwealth of, Department of Transportation (VDOT), owner of antenna structure number 1024092 in Norfolk, Virginia. Pursuant to Section 1.89(a) of the Rules, issuance of this Notice does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violation(s) noted herein.<sup>2</sup>

2. On October 10, 2014 an agent of the Enforcement Bureau's Norfolk Office inspected antenna structure number 1024092 located at I-64 and I-564, Exit 276, and observed the following violation(s):

- a. 47 C.F.R. § 17.23: "Unless otherwise specified by the Commission, each new or altered antenna structure must conform to the FAA's painting and lighting specifications set forth in the FAA's final determination of "no hazard" and the associated FAA study for that particular structure. For purposes of this part, any specifications, standards, and general requirements set forth by the FAA in the structure's determination of "no hazard" and the associated FAA study are mandatory. Additionally, each antenna structure must be painted and lighted in accordance with any painting and lighting requirements prescribed on the antenna structure's registration, or in accordance with any other specifications provided by the Commission." According to the FCC antenna structure registration, the antenna structure requires painting and lighting as specified in FAA circular number 70/7460-

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<sup>1</sup> 47 C.F.R. § 1.89.

<sup>2</sup> 47 C.F.R. § 1.89(a).

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1K, chapters 3, 4, 5, and 12. On October 10, 2014, after sunset, an agent observed the top beacon was extinguished.<sup>3</sup>

3. Pursuant to Section 403 of the Communications Act of 1934, as amended,<sup>4</sup> and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, VDOT must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must also describe the steps that VDOT is taking to ensure that it monitors the lights on the antenna structure, as required, to ensure proper functioning.<sup>5</sup> The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.<sup>6</sup>

4. In accordance with Section 1.16 of the Rules, we direct VDOT to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of VDOT with personal knowledge of the representations provided in VDOT's response, verifying the truth and accuracy of the information therein,<sup>7</sup> and confirming that all of the information requested by this Notice which is in VDOT's possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.<sup>8</sup>

5. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

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<sup>3</sup> On October 10, 2014, an agent from the Norfolk Office also confirmed that there was no active Notice to Airmen (NOTAM) in place for the structure. The agent notified the Lockheed Martin Flight Service Station, Phone 1-877-487-6867, of the outage and a NOTAM for the structure was issued.

<sup>4</sup> 47 U.S.C. § 403.

<sup>5</sup> See 47 C.F.R. § 17.47 (requiring antenna structure owners to observe visually lighting once every 24 hour or alternatively to employ an automatic alarm system to detect failures).

<sup>6</sup> 47 C.F.R. § 1.89(c).

<sup>7</sup> Section 1.16 of the Rules provides that "[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person . . . . Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'." 47 C.F.R. § 1.16.

<sup>8</sup> 18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

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Federal Communications Commission  
Norfolk Office  
1457 Mount Pleasant Road, Suite 113  
Chesapeake, VA 23322

6. This Notice shall be sent to VDOT at its address of record.

7. The Privacy Act of 1974<sup>9</sup> requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION

Greg Coons  
Resident Agent  
Norfolk Office  
South Central Region  
Enforcement Bureau

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<sup>9</sup> P.L. 93-579, 5 U.S.C. § 552a(e)(3).